

nance shall provide that it shall not become effective unless, within the time provided in such ordinance for its becoming effective, the person to whom the franchise is granted shall have paid to the director the franchise fees established in this division for one year's operation.
(Code 1968, § 43-41)

Sec. 46-174. Deposit to cover cost of publication of ordinance.

Before a franchise or franchise ordinance provided for by this division is published as required by the provisions of the charter, the applicant therefor shall deposit with the city secretary the amount which the city secretary may ascertain will be the cost of such publication. After such publication has been ordered, the applicant shall not be entitled to have refunded any part of such deposit which is made to secure the cost of publication except such part thereof, if any, as is not expended for that purpose.
(Code 1968, § 43-42)

Sec. 46-175. Fee.

(a) The annual fee for a franchise required by this division shall be as follows:

- (1) For each suburban bus to be operated, having a seating capacity of 30 or more, the sum of \$150.00.
- (2) For each suburban bus to be operated, having a seating capacity of more than 24 and less than 30, the sum of \$120.00.
- (3) For each suburban bus to be operated, having a seating capacity of more than 19 and less than 25, the sum of \$100.00.
- (4) For each suburban bus to be operated, having a seating capacity of more than 14 and less than 20, the sum of \$90.00.
- (5) For each suburban bus to be operated, having a seating capacity of less than 15, the sum of \$75.00.

(b) The franchise fees provided for hereunder and to be provided for in such franchise ordinance shall be paid on an annual basis and if the holder of any franchise shall not, on or before the expiration of one year from the date of issue thereof,

pay in advance the franchise fee for the succeeding year, such franchise shall thereupon terminate and come to an end.

(c) If a franchise is not finally granted, the applicant shall be entitled to a refund of the amount he has paid as the franchise fee for the first year.

(Code 1968, § 43-43)

Sec. 46-176. Transfer.

A franchise granted under this division shall be personal to the person to whom it is granted and shall not be transferred except subject to such terms as the council may include in the franchise ordinance.

(Code 1968, § 43-44)

Secs. 46-177—46-190. Reserved.

**ARTICLE IV. SIGHTSEEING, CHARTER
AND CHAUFFEURED LIMOUSINE
SERVICES***

DIVISION 1. GENERALLY

Sec. 46-191. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Chauffeured limousine shall mean:

- a. A sedan-type luxury motor vehicle with a passenger capacity of five or

***Editor's note**—Section 5 of Ord. No. 00-960 states that: With the exception of section 46-239 of the Code of Ordinances, Houston, Texas, all provisions of this article shall become effective immediately upon its passage and approval by the Mayor. The provisions of section 46-239 of the Code of Ordinances, Houston, Texas, shall become effective on the ninetieth day next following the date of passage and approval of this ordinance. Immediately following the passage and approval of this ordinance, the director of finance and administration or her designee shall commence accepting and processing applications for limousine driver licenses under section 46-239 and may issue temporary licenses or take such other administrative actions as may be desirable to implement that section in an effective manner.

six persons (including the driver), which vehicle is either less than or equal to six years of age;

- b. An extended-body type motor vehicle with a passenger capacity of no more than 15 persons (including the driver), which vehicle is either less than or equal to ten years of age and modified to extend its original factory wheelbase by 40 inches or more in conformity with Federal Motor Vehicle Safety Standard requirements.
- c. A vehicle that is classified in the United States Environmental Protection Agency's annual Fuel Economy Guide as a sport utility vehicle that (i) has a passenger capacity of not less than six persons nor more than nine persons, including the driver, (ii) has a manufacturer's suggested base retail selling price of not less than that of a two wheel drive Ford Expedition, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by the manufacturer, and (iii) is either less than or equal to six years of age;
- d. A van with a manufacturer's rated passenger capacity of 15 persons (including the driver), which vehicle is less than or equal to seven years of age; or
- e. An antique, classic, or special interest vehicle.

For the purposes of this article, "antique" shall mean a vehicle that is 25 years old or older; "classic" shall mean a vehicle recognized by the Classic Car Club of America; and "special interest" shall mean a vehicle that, due to limited production, outstanding design, and/or technical achievement, is of special interest. The age of the vehicle will be measured from the manufacturer model year date. The

model year shall always count as the first full year. It shall be the duty of the director to make a determination as to whether or not a given vehicle is less than or equal to six years of age, seven years of age, ten years of age, or is an antique, classic or special interest vehicle within the meaning of this article. In no event will a vehicle other than an antique vehicle be allowed in service for the first time with mileage in excess of 100,000 miles for vehicles, which mileage shall be determined from the odometer and from odometer and title records.

Chauffeured limousine service shall mean the business of renting or leasing a "chauffeured limousine," as defined in this section, including the services of a driver, to a person, solely upon his request or one acting for or on his behalf, for any period of time not less than two hours to be used by the person or persons hiring the vehicle or under their direction and authority for the period of time the vehicle is rented or leased. Specifically excluded from this definition are the following:

- a. Vehicles, and the drivers thereof, provided for use in connection with, or attending, or participating in any phase of a funeral or funeral service.
- b. All taxicabs licensed by the city.
- c. All vehicles operating under a contract with the city.
- d. All sightseeing or charter vehicles licensed by the city.

Director shall mean the director of finance and administration or his designee(s).

Extended body shall mean that a vehicle shall have been modified to extend its original factory wheelbase by 40 inches or more in conformity with any applicable state or federal safety laws, standards, and regulations.

Gross receipts shall mean the aggregate of all sums collected by the licensee in the operation of either a sightseeing or charter service or a chauffeured limousine service; provided, however, that in the case of a chauffeured limousine service, the term "gross receipts" shall not

include or apply to revenues derived from providing chauffeured limousine services involving a vehicle leased or rented from another chauffeured limousine agency that makes a similar charge to the licensee providing the service to the customer.

License shall mean an authority as described herein to operate a sightseeing or charter service or chauffeured limousine service, duly granted by the director under this article.

Licensee shall mean the person, firm, partnership, corporation, association, or society to whom a license has been duly issued under this article for either a sightseeing or charter service or a chauffeured limousine service.

Luxury motor vehicle shall mean a vehicle that has a manufacturer's suggested base retail selling price of not less than that of a Cadillac Sedan de Ville or Lincoln Town Car sedan, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by the manufacturer

Sightseeing or charter service shall mean the transporting of passengers by charter between points within the city and between such points and points without the city upon a route including stops at various points of public interest and providing for eventual discharge at the place at which such passengers are picked up. From such definition is specifically excluded the discharge of passengers from points other than those at which they are picked up.

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 05-940, § 2, 8-3-05)

Sec. 46-192. Rules and regulations; director's authority.

The director is hereby granted the authority to promulgate, from time to time, reasonable rules and regulations to carry out the intent and purposes of this article, which rules and regulations shall be adhered to by all charter and sightseeing service licensees and chauffeured limousine service licensees hereunder.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-193. Penalty.

Any person guilty of violating any of the terms of this article shall, upon conviction, be punished as provided by section 1-6 of this Code. Each day a violation of any of the terms or provisions of this article is allowed to continue shall be deemed a separate offense.

(Ord. No. 00-960, § 2, 11-1-00)

Secs. 46-194—46-199. Reserved.

DIVISION 2. SIGHTSEEING AND CHARTER SERVICES

Sec. 46-200. Scope.

The provisions of this division shall apply to charter and sightseeing services and licensees thereof.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-201. License required.

It shall be unlawful for any person to operate a sightseeing or charter service, or to drive or cause to be operated or driven any sightseeing motor vehicle or charter service motor vehicle upon and over the streets of the city, until such time as the director has approved the issuance of a license for such service and a license has been issued, or at a time when a license previously issued has been suspended or canceled. Violators of this section, upon conviction, shall be fined not less than \$100.00 nor more than \$500.00. Each instance of so operating such vehicle shall be deemed a separate offense.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-202. License term; operations authorized.

(a) A charter and sightseeing service license shall be for a term of ten years and shall authorize the licensee to operate a sightseeing service under which persons picked up at various points are taken upon a route including stops at various points of public interest and eventually discharged at the place at which they were picked up. Proof that persons carried by a licensee are discharged and leave the bus at points other than

those at which they are picked up shall constitute grounds for termination of the license under the provisions hereinafter stated for notice and hearing; provided, that should a licensee have scheduled routes under which "pickups" are made at several points within the business district of the city, then passengers who are picked up and carried over an entire sightseeing route of not less than ten miles in length may be discharged at any of the scheduled discharge points within the business district without constituting a violation of the terms of the license.

(b) A charter and sightseeing service license shall also authorize the operation of a charter service between points within the city and between such points and points without the city; provided however, that in operating motor vehicles for charter service from motels and hotels to transport visitors to and from various sporting events:

- (1) The rates charged by a licensee shall not compete with the local transit system;
- (2) A licensee shall not advertise locally except by use of posters or notices in said motels and hotels; and
- (3) A licensee shall wait for the passengers and bring them back to the point of origin.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-203. Application for license.

Applications for a charter or sightseeing service license shall be submitted on forms to be furnished by the director and the applicant shall furnish the following information with each such application, that shall be sworn to before a notary public:

- (1) The name and form of business under which the service will be operated (if a partnership or corporation, copy of the partnership agreement or articles of incorporation must be attached).
- (2) A complete balance sheet showing all of the assets and all of the liabilities of the applicant.

- (3) A schedule showing the model, type and make of each motor vehicle that the applicant desires to place into operation.
- (4) A description of the sightseeing tours that the applicant proposed to furnish and a schedule of the routes he proposes to follow.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-204. License issuance procedure.

(a) Whether or not a charter and sightseeing service license shall be issued pursuant to this part shall be determined at a hearing to be held and conducted by the director at a time and place specified by him in accordance with the provisions of this article.

(b) Upon making application for a charter and sightseeing service license, the applicant shall deposit a sum of money not to exceed \$50.00, with the director. Such sum shall be used to pay for the advertising of such application in one of the daily newspapers published in the city for three consecutive days. In addition to the \$50.00 deposited for advertising costs, each applicant must deposit the sum of \$150.00 with the director for the first day of the hearing. Should the hearing continue for more than one day, an additional \$150.00 shall be deposited in advance for each additional day or fraction of a day the hearing shall continue. Such deposits shall represent an estimate of one-half the cost of a prepared transcript for each day or fraction of a day the hearing shall continue. In the event that the amount of the deposits described above is more than the cost of advertising the application and more than one-half of the cost of the transcript of the hearing such excess shall be refunded to the applicant by the director. In the event the sums deposited are less than the cost of the advertising the application and less than one-half of the cost of the transcript of the hearing, the applicant shall pay the difference found to exist. The final decision of the director will be withheld until such amount has been paid by the applicant.

(c) Within ten days after receipt of an application, complete with all information and data herein required, the director shall cause to be published in one of the daily newspapers published in the

city for three consecutive days a notice of hearing. Such notice shall state that a public hearing will be held at a designated place at a designated time and date. The time for said hearing shall not be less than five nor more than 15 days from the date of the first publication. Said notice shall give the name of the applicant, the name of the business under which the applicant proposes to operate, and any other pertinent data that the director may deem necessary.

(d) The burden of proof shall be upon the applicant to establish by clear, cogent and convincing evidence before the director that public convenience and necessity require the issuance of the license applied for. The application shall be denied unless the director so finds.

(e) The director shall consider all of the evidence of the applicant and his witnesses. He shall also hear all of the evidence of the protestants and their witnesses, and shall have the right to call such other witnesses as he may deem appropriate.

(f) After completion of the public hearing and compliance with subsection (a), above, and within 15 days after the transcript of the hearing has been delivered to the director by the court reporter, the director shall make a finding as to whether or not public convenience and necessity require the issuance of the license applied for. Such finding shall be communicated in writing to the applicant and to each protestant. The decision of the director shall be final unless an appeal be perfected therefrom as provided in the following subsection (g).

(g) After the director has made his findings and in the event the application has been denied, the applicant shall have the right to appeal to the city council as hereinafter provided. In addition, any intervenor shall have the right to appeal the decision of the director in granting the permit as hereinafter provided. If the director has determined that a license should be granted, issuance of the license shall be deferred in cases where the application was opposed until the period of appeal has expired or pending final determination by the city council when an appeal has been made. The decision of the director in granting or denying an application for a sightseeing or charter service

license, or in revoking such a license, may be appealed to the city council. Such appeal must be perfected by a letter addressed to the mayor and city council and delivered to the office of the city secretary, or postmarked in the United States mail, within ten days of the date notice of the director's decision, addressed to the party making the appeal, is placed in the United States mail, which letter of appeal must state that an appeal from the decision of the director is desired. Council may grant such applicant or intervenor a hearing only if the notice of appeal is in writing and timely given. The action of the city council in affirming, reversing, or modifying the decision of the director shall be final. If no appeal is made from the director's decision within ten days after notice of same has been placed in the United States mail, the director's decision shall become final.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-205. Identification certificates for vehicles.

Upon the director's issuing a charter and sightseeing service license, the licensee shall furnish to the director a list of the vehicles that he proposes to operate, describing them in such detail as the director may require. The licensee shall furnish to the director similar descriptions and details when he proposes to place any additional vehicle in operation or withdraw from operation any vehicle theretofore operated. The director shall determine the number of vehicles a licensee shall be authorized to operate at any one time. The director shall devise a system of identification for such vehicles and prescribe and issue a form of certificate identifying each vehicle as one lawfully operated under the license. A vehicle shall be deemed in operation whenever there is in force covering the vehicle an identification certificate, whether or not such vehicle may on all days and at all times be in actual operation upon the streets. The council finds that in the interest of an efficient service, it is not practicable for it to designate or prescribe the precise type or description of the vehicles that shall from time to time be operated, provided that

the vehicles are designed by the manufacturer to accommodate 16 persons or more, including the driver.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-206. Vehicle condition, safety and equipment.

In the matter of the condition, safety and equipment of the vehicles operated by a sightseeing and charter service licensee, the licensee shall observe all of the provisions of and the director shall have all of the powers given by sections 46-137, 46-142, 46-143, 46-145 and 46-146 of this Code except to such extent, if any, as any provisions of such sections are by their language completely inapplicable other than to the operation of buses upon fixed schedules.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-207. Insurance requirements.

(a) Every vehicle operated under a charter and sightseeing service license issued pursuant to the provisions of this division shall at all times be covered by liability insurance meeting all requirements of Chapter 643 of the Texas Transportation Code.

(b) Policies issued under this section shall contain a provision for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon, and that 30 days written notice shall be given the director before cancellation of such policy is effective. In the matter of cancellation of such policies, replacements thereof by new policies, and all such related matters, the licensee shall have the responsibility to comply with the provisions of section 46-140 of this Code, and the mayor and the director shall have all of the powers given them by such section.

(c) The insurance required in subsection (a) shall be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of coverage shall be accepted only in the authorized form that has been promulgated by the city for that purpose. A copy of the authorized form has been placed on

file for inspection in the office of the city secretary, and it is adopted as a part of this Code by reference.

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 05-940, § 3, 8-3-05)

Sec. 46-208. Maintenance and operation of vehicles; qualifications of drivers.

The provisions of sections 46-137, 46-142, 46-147 through 46-150 and 46-153 through 46-156 of this Code shall also apply to the condition, safety and equipment of vehicles operated by a sightseeing and charter service licensee.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-209. Schedule of fares.

A sightseeing and charter service licensee shall observe such reasonable schedule of fares to be charged by him as the city council may from time to time fix, subject to re-determination by it in the event of a change in conditions making the schedule theretofore fixed unreasonable. Upon being issued a license, a licensee shall forthwith file with the director a complete schedule of fares to be charged by him, which schedule shall be accepted by the director before the license shall become operative, and in the event any changes are made in such fares, licensee will file with the director such changes not later than 30 days before the effective date of such changes; provided that if the director fails to act thereon within said 30 day period, such changes in fares shall become effective. A licensee shall observe at all times such schedule of fares as may from time to time be in effect and approved by the director.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-210. Routes and schedules.

The council finds that it is not practicable for it to prescribe detailed schedules or routes upon which sightseeing vehicles used by a sightseeing and charter service licensee shall be operated. Accordingly, in the matter of routes and schedules, a licensee shall operate sightseeing buses only over and along routes theretofore approved

by the director and make and observe such changes in such routes as the director may from time to time require.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-211. Annual license fee.

(a) *Fees.* The annual fee for a license under this division shall be \$400.00 for each sightseeing or charter vehicle, payable to the department of finance and administration in two installments as follows: \$200.00 paid on or before January 1st of each year, and \$200.00 paid on or before June 1st of each year. In the event the license is issued for a period of time less than one year, the fee shall be \$50.00 per month or fraction thereof remaining in the calendar year, not to exceed \$400.00. A replacement fee of \$15.00. shall be charged for reissuance of each medallion that is lost, mutilated, or otherwise rendered unusable. Failure to pay the license fees when due shall result in termination of the license as provided in section 46-215 of this Code.

(b) *Refunds.* Within 90 days of the expiration of any calendar year a licensee may apply to the director for a refund of a portion of its license fees if the license fees paid for the previous calendar year exceed two percent of the licensee's gross receipts. The refund application shall be made on the form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the licensee in a form approved by the director. The application, as well as any supplementary material required by the director, must be accompanied by an affidavit signed and sworn to by or on behalf of the applicant. The applicant shall state that the application (or supplement) and all attachments thereto are correct and complete and do not omit any material item, and that the applicant either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the licensee the amount by which the total license fees paid for the previous calendar

year exceed two percent of the licensee's total gross receipts for the previous calendar year; or

- (2) Deny the refund.

(c) *Additional to other required fees.* The fees established in this section shall be payable in addition to any other applicable fees imposed by this Code or other ordinances of the city.

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 05-940, § 4, 8-3-05)

Note—Section 16(a) of Ord. No. 05-940 provides for an effective date of January 1, 2006.

Sec. 46-212. Statements, reports, records.

A sightseeing and charter service licensee shall furnish and render to the director such statements and reports incident to the conduct by him of the business hereby authorized as the director may prescribe. He shall also keep such records of such operation as shall be sufficient not only to show the amount of his gross receipts during any and every monthly period but also to show the expenses of operation in such detail as may be sufficient to enable the city council from time to time to pass upon the reasonableness of his fares and to fix and determine reasonable fares. He shall permit such persons as the city council, mayor or the director may, from time to time, appoint to examine such books and records at any and all reasonable times. He shall furnish to the director at the time of each payment of license fees hereunder a statement of his entire receipts during the period covered by such payment, which statement he shall certify as being to the best of his knowledge and belief true and correct, and shall be sworn to.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-213. Deficient service; action by director.

Should the director determine upon his own initiative or upon complaint of any person whomsoever that the business and service authorized to be provided by any sightseeing and charter service licensee is not being operated so as to serve fully the public safety, convenience, necessity or welfare (whether from insufficient, unsuitable or unsafe equipment, infrequency of schedules or

any other matter incident to such operation), the director shall notify the licensee of his determination, pointing out the respects in which the service is deficient and requiring that within such time as he may designate, the conditions complained of be remedied. In the event the conditions are not remedied within the time specified the director may either suspend the license for a period not to exceed 15 days or issue an order cancelling the license after providing a hearing in the manner contemplated by section 46-215.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-214. Right of council to investigate.

The city council may, upon its own initiative or upon the reporting thereof to it by the director or upon the complaint of any interested person, inquire into any matter related to the operations conducted under a sightseeing and charter service license and the fares or charges therefor; and may, upon such inquiry, make such determination and finding as is proper, to the end that the transportation furnished by a licensee shall be such as to serve suitably and adequately the public's needs at fair and reasonable rates for an adequate and dependable sightseeing bus service.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-215. Procedure relating to termination of license.

(a) If the director has reason to believe that a sightseeing and charter service licensee has violated any of the terms of this article, he may notify (or upon motion of council to that effect, he shall notify) the licensee that on a date to be stated in such notice he, the said director will, at a place also to be stated therein, determine whether his license should be terminated because of such default. At such hearing the licensee shall have the right to appear and show cause, if any exists, why his license should not be terminated. Such notice need not do more than state generally the grounds upon which such termination is proposed to be declared. The decision of the director at such hearing shall be final.

(b) Notwithstanding the foregoing, if a sightseeing and charter service licensee fails to pay when due the license fee, or any installment thereof,

provided for in section 46-211 of this Code, his license shall automatically be canceled 30 days after the due date of such installment unless, before the expiration of such time, the licensee shall pay the amount of such installment plus interest thereon at the rate of ten percent per annum from such due date until paid.

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 05-940, § 5, 8-3-05)

Sec. 46-216. Transfer of license.

No transfer of a sightseeing and charter service license issued shall be effective unless it be in writing, in duplicate, signed by the transferor and by the transferee, stating the true consideration of such transfer, accompanied by the transferee's application substantially in the form prescribed in section 46-203 of this Code, which shall be filed with the city secretary, and also accompanied by the certificate of the director that he has found and determined that the public necessity and convenience will be justified and served by such transfer. No transfer of a license shall be effective until the transferee has complied in all respects with the terms of this division.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-217. Existing franchises.

No provision of this Code or of the ordinance adopting this Code shall be construed to repeal any franchise for the operation of a sightseeing and charter service heretofore granted by an ordinance of the city council.

(Ord. No. 00-960, § 2, 11-1-00)

Secs. 46-218—46-229. Reserved.

DIVISION 3. CHAUFFEURED LIMOUSINE SERVICE

Sec. 46-230. Scope.

The provisions of this division shall apply to chauffeured limousine services and licensees thereof.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-231. License required.

It shall be unlawful for any person to operate a chauffeured limousine service or to offer or agree to provide chauffeured limousine service, or to rent or lease motor vehicles, including the service of a driver, for chauffeured limousine service in the City of Houston, unless the person holds a current and valid chauffeured limousine service license that has been issued under this division. (Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-232. Annual license fee.

(a) *Required.* The annual fee for a license under this division shall be \$400.00 for each limousine, payable to the department of finance and administration in two installments as follows: \$200.00 paid on or before January 1st of each year and \$200.00 paid on or before June 1st of each year. In the event the license is issued for a period of time less than one year, the fee shall be \$50.00 per month or fraction thereof remaining in the calendar year, not to exceed \$400.00. A replacement fee of \$15.00 shall be charged for reissuance of each medallion that is lost, mutilated, or otherwise rendered unusable. Failure to pay the license fees when due shall result in license revocation, as provided in section 46-244(d) of this Code.

(b) *Refunds.* Within 90 days of the expiration of any calendar year a licensee may apply to the director for a refund of a portion of its license fees if the license fees paid for the previous calendar year exceed two percent of the licensee's gross receipts. The refund application shall be made on the form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the licensee in a form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the applicant. The applicant shall state that the application (or supplement) and all attachments thereto are correct and complete and do not omit any material item, and that the applicant either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed.

Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the licensee the amount by which the total license fees paid for the previous calendar year exceed two percent of the licensee's total gross receipts for the previous calendar year; or
- (2) Deny the refund.

(c) *Additional to other required fees.* The fees established in this section shall be payable in addition to any other applicable fees imposed by this Code or other ordinances of the city. (Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-233. Application for license—Form.

(a) An application for a chauffeured limousine service license shall be submitted on forms to be furnished by the director and the applicant shall furnish the following information with each application, which shall be sworn to before a notary public:

- (1) The name and form of business under which the service will be operated. (If a partnership or corporation, a copy of the partnership agreement or articles of incorporation must be attached.)
- (2) The name, mailing address, and street address, if different, of the applicant's agent for service of legal process (which information shall always be kept current.)
- (3) A schedule showing the model, manufacturer model year date, type, make, vehicle identification number, license plate number, and mileage of each motor vehicle that the applicant desires to place into operation and a statement as to the legal ownership of each vehicle. Except as provided in subsection (c) below, at least one vehicle to be operated by the applicant must be an extended body type.

(b) An applicant for a license under this division must:

- (1) Be not less than 18 years of age and of good moral character.
- (2) Not have been convicted of an applicable offense specified in section 1-10 of this Code unless the license is granted notwithstanding the conviction pursuant to section 1-9 of this Code.
- (3) Be able to read and write the English language.

(c) The director shall forward each application received, whether original or amended, to the chief of police for an investigation as to whether the license applicant has been convicted of any applicable offense(s) as specified in section 1-10 of this Code.

(d) If the applicant is a partnership or association, the partners or associates, or if the applicant is a corporation, each person who is either an officer, a director or a holder of ten percent or more of the outstanding shares, shall be required to join in filing the application and all of the herein set forth provisions and requirements applicable to individual applicants shall apply to and be required of each such partner, associate, officer, director, or shareholder. Failure of any of the persons heretofore mentioned to meet such requirements shall be grounds to deny the application of the partnership, association or corporation.

(e) Any change in associates, partners, officers, directors, or shareholders of the business entity holding a chauffeured limousine service license issued by the city shall require a license amendment and must be reported to the director within ten days after the change. The new associates, partners, officers, directors, or shareholders shall complete and file the forms and supply the information required of applicants for chauffeured limousine service licenses. The director shall consider the information supplied regarding the new or proposed member or officer of the licensee, and if this examination discloses that the new or proposed person possesses the qualifications of a person to whom a chauffeured limousine service license would be issued under the

terms of this article, he shall change his records to reflect the new member or officer of the licensee.

(f) Except as provided in section 46-235(b) of this Code, the addition of any vehicle to the license, removal of any vehicle from the license, or substitution of any vehicle with a replacement vehicle under the license, shall also require a license amendment.

(g) Each chauffeured limousine service licensee is required to maintain and operate at least one extended body type vehicle at all times as part of his city authorized vehicle fleet under the license. The provisions of this requirement shall not extend to renewals or amendments of licenses that were originally issued on the basis of applications that were filed on or before November 1, 2000; however, a licensee operating under this special exemption may not increase the number of vehicles authorized under his license unless and until he adds at least one extended body type vehicle to his authorized vehicle fleet. Failure to comply with the provisions of this section shall be grounds for license revocation.

(h) (1) In addition to any other information required to be provided under this section, each applicant for issuance, renewal, or amendment of a limousine service license shall be required to advise the director in writing upon the application form whether the applicant desires privileges to operate the limousine(s) covered by the license upon the property of city airports.

(2) Each licensee who desires privileges to operate upon city airports is required to maintain and operate at all times under the limousine service license a city authorized fleet of either:

- a. Not less than three limousines, including at least one extended body type vehicle, or
- b. Not less than four licensable chauffeured limousine vehicles, as defined in this article.

The provisions of this requirement shall not extend to renewals or amendments of limousine service licenses that were orig-

inally issued on the basis of applications that were filed on or before November 1, 2000; however, a licensee operating under this special exemption may not increase the number of vehicles authorized under his license unless and until he adds at least one extended body type vehicle to his authorized vehicle fleet.

- (3) The director shall cause each limousine service license that is issued, renewed, or amended and any permits, medallions, or other evidence of licensure to indicate whether or not the licensee and vehicles have city airport privileges under this subsection (h).
- (4) If shall be unlawful for any person to operate or cause to be operated any limousine that does not have city airport privileges under this subsection (h) upon any city owned or operated airport. Additionally, violation of this subsection (h) shall be grounds for revocation or suspension of the offender's limousine service license and limousine driver license.

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 05-940, § 6, 8-3-05)

Sec. 46-234. License issuance procedure.

(a) The director shall initially review each application for issuance or amendment of a license to determine whether the application is complete and all required information has been provided. If not, the application shall be returned, and the applicant shall be so advised.

(b) The director shall review completed applications to determine whether the applicant has met all applicable requirements of this article and of other applicable provisions, including section 1-10 of this Code. If so, the director shall issue the license without conducting a hearing. If, based upon the review, the director determines that one or more requirements may not have been met, the director shall afford the applicant the right to a hearing as provided in subsection (c), before acting on the application.

(c) Prior to the denial of an application, the director shall afford the applicant notice of the proposed grounds for denial and that the appli-

cant may, within thirty days following the date of deposit of the notice in the mail request a hearing. Where the grounds are based in whole or in part upon section 1-10 of this Code, the hearing shall conform to the requirements of section 1-9 of this Code with respect to those grounds. Hearings shall be conducted by a hearing officer designated by the director for that purpose. The director shall not designate a person to act as hearing officer who participated in the review of the application. Hearings shall be conducted in a manner that is consistent with principles of due process; the applicant may be represented by legal counsel, may present evidence and cross examine witnesses presented by the city. The decision of the hearing officer, which shall be based upon the preponderance of credible evidence presented, shall be final, subject to the applicant's right to appeal pursuant to state law if the denial is based upon section 1-10 of this Code.

(d) In the event that the license is approved, issuance shall be subject to compliance with this article, including, but not limited to, payment of any required fees, inspection of vehicles to be utilized, and submission of proof of insurance.

(e) A chauffeured limousine service license does not entitle the licensee to act as the driver of covered vehicles. A separate limousine driver license is required for that purpose as provided in section 46-239 of this Code.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-235. License; term; renewal; number of vehicles; identification certificate.

(a) Licenses shall be issued for a term of five years. Licensees desiring to have reissuance of their license shall, at least 60 days prior to the expiration of the license, file with the director a written application for a renewal of their license. Except as otherwise expressly stated, renewals shall be subject to the same requirements set forth in this article for issuance of new licenses. A license shall be valid only for the vehicles listed thereon and any vehicles reported under an amendment to the application filed pursuant to section 46-233 of the Code, which vehicles must also pass inspection under section 46-236 of the Code.

(b) In addition to the vehicles regularly operated by a licensee, the licensee may place one or more vehicles into use on a temporary basis from time to time to meet seasonal or unexpected needs in accordance with this subsection. Temporary vehicle medallions shall be issued for a term of 30 consecutive calendar days to commence on the date of issuance at a fee of \$50.00 per vehicle, per medallion, upon provision to the director of proof of the identity of the vehicle to be used including verification that the vehicle is in compliance with all requirements of this division including proof that it is insured as required in section 46-238 of this Code and has been inspected and approved for use as provided in section 46-236 of this Code within six months preceding the date the temporary medallion is issued. For vehicles placed in service on a temporary basis that are less than or equal to two years of age (manufacturer's model year date counted as first full year) proof of a valid state inspection will suffice for the requirement of section 46-236 of this Code. If the licensee's insurance policy on file with the director pursuant to section 46-238 of this Code also covers the vehicles that will be placed in service on a temporary basis, no additional proof of insurance is required.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-236. Inspection fee; maintenance equipment.

(a) Each licensee shall cause each limousine operated under his license to be submitted for inspection by the director from time to time at intervals not exceeding 12 months as more particularly provided in section 46-237 of this Code. The director shall inspect each limousine and determine whether it is in full compliance with the terms of this article. If so, the licensee shall be given an inspection compliance decal for the limousine, which shall be valid for 12 months from the date of its issuance. The inspection compliance decal shall be affixed by the director to the windshield of the vehicle. It shall be unlawful to drive or to cause to be driven any limousine licensed under this division that does not have a current inspection compliance decal affixed by the director.

Each licensee shall pay to the director an inspection fee for the inspection services described in this section in the amount of \$25.00 per limousine, per calendar year, provided that the fee for the balance of the calendar year shall be reduced to \$12.50 for any limousine that is initially placed in service or after July 1.

(b) All vehicles shall be maintained in a safe and sanitary condition at all times and shall always be maintained in first class mechanical condition.

(c) All vehicles shall be air-conditioned and equipped with interior and exterior rearview mirrors, windshield washers and two-speed windshield wipers, proper headlights and taillights that shall be in operation from one-half hour after sunset to one-half hour before sunrise when the limousine is in operation. The inspection shall include, but not be limited to, the following items: Vehicle identification number; date of purchase; foot brakes; emergency brake, headlights; taillights; brake lights; turn signal lights; license plate lights; horn; two-speed windshield wipers; interior and exterior rear vision mirrors; air conditioner; tires; muffler and tail pipe; condition of the body; condition of the fenders; condition of the paint; condition of the interior; current state inspection sticker; state license plates; speedometer readings; mileage; steering. Brakes, seat belts and all other safety, noise and antipollution requirements specified by the United States Government and the state shall be complied with at all times. The brakes shall always be kept in first class working order.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-237. Tests and inspections of limousine vehicles.

The director or his duly appointed representative, may at any time, and shall at least once each year, make tests and inspections of all limousine vehicles then in operation to assure that they are in compliance with the terms of section 46-236 of this Code, and if as a result of the inspection or test any limousine vehicle is found not to comply with any of the requirements therein set out, the licensee shall be notified of the defects observed and he shall immediately correct same to the

satisfaction of the director. Any vehicle that is the subject of the notification shall not be operated on any street of the city until it has been reinspected and determined to be in compliance with the requirements of inspection. The director and any employee to whom he may designate the duty of inspection of limousine vehicles shall be given ready access to the vehicles at all reasonable times. Failure to submit a vehicle requested for inspection by the director shall be cause for suspension of the inspection compliance decal assigned to that vehicle for a period of three days for the first offense, 15 days for the second offense, and revocation upon the third offense. (Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-238. Insurance requirements.

(a) Notwithstanding any other provision of this article to the contrary, no chauffeured limousine service license shall become effective until the person to whom the license is granted shall have filed with the director the standard policy of public liability and property damage insurance executed by an insurance company duly and legally authorized to do business in this state insuring the general public against any loss or damage that may result to any person or property from the operation of limousine vehicles covered by his license.

(b) The public liability insurance herein provided for shall have limits of not less than \$250,000.00 for bodily injury to one person or the death of one person, and \$500,000.00 for bodily injury to or death of all persons injured or killed in any one accident and \$100,000.00 for property damage.

(c) The insurance shall be for the protection of the passengers of limousine vehicles as well as for the general public, but shall not be required to cover personal injuries sustained by the servants, agents or employees of the licensee. The policies issued under this section shall contain a provision for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon, and a provision requiring that 30 days written notice shall be given the city before cancellation of the policy is effective.

(d) If any insurer desires to be released from any insurance policy filed under this section, he may do so by giving written notice to the director at least 30 days before he desires to be released from liability. The director shall thereupon give written notice by certified mail, return receipt requested, to the licensee and demand that such licensee furnish evidence of new insurance obtained before the expiration of the policy.

(e) If any policy is cancelled as herein provided, or expires, and no new policy is filed by the licensee before the cancellation or expiration of the original insurance, the chauffeured limousine service license shall automatically be suspended, and the licensee shall discontinue the operation of the affected vehicles within the city. In addition to the automatic suspension, the director may revoke the license following ten days written notice to the licensee and an opportunity for a hearing.

(f) The insurance required in this section shall be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of coverage shall be accepted only in the authorized form that has been promulgated by the city for that purpose. A copy of the authorized form has been placed on file for inspection in the office of the city secretary, and it is adopted as a part of this Code by reference. (Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-239. Driver license; other driver requirements.

(a) No person shall operate a limousine upon the streets of the city unless he holds a current and valid city limousine driver license.

(b) At all times while in service, whether physically operating a limousine, assisting passengers, or performing other duties attendant to the provision of limousine service, it shall be the duty of the driver to conspicuously display his limousine driver license upon his upper chest. The license may be attached to the driver's outer shirt or jacket pocket or lapel, suspended from a necklace or displayed in an equivalent manner on the driver's outer garments. In any prosecution under this subsection, it shall be presumed that the

driver was not in possession of a current and valid limousine driver license if the license card was not conspicuously displayed as aforesaid.

(c) Limousine driver licenses shall be issued in all respects on the same basis and subject to all of the same requirements established in division 3 of article II of this chapter for the issuance of taxicab driver licenses.

(d) Each driver shall, while operating a licensee's limousine, wear a men's or women's business suit (jacket and matching slacks, dress, or skirt) or a chauffeur's uniform with a dress shirt or blouse and, for men, a tie, provided that the jacket need not be worn during the months of May through October, or at any time while the limousine is in motion.

(e) It is an affirmative defense to prosecution under this section that the person driving a limousine had been engaged by the licensee to perform repairs or servicing of the vehicle, and that the vehicle was not in service at the time of the alleged offense.

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 03-1046, § 20, 11-12-03)

Note—See editor's note at Ch. 46, Art. IV.

Sec. 46-240. Reserved.

Sec. 46-241. Operation from licensee's usual place of business, etc.

A chauffeured limousine service licensee shall operate only from his usual place of business, and his vehicles shall be dispatched therefrom; provided, however, if any licensee has a written agreement authorizing the licensee to operate from a hotel or motel, that place shall be considered a usual place of business when a copy of the agreement is filed with the director. The licensee shall not operate, house, store or maintain any of his vehicles at any place of public accommodation unless the limousine is at that time hired. The licensee's drivers shall not approach potential customers in any public place for the purpose of soliciting their business, and no advertising sign shall be displayed inside the limousine at any time; and the only advertising that may be displayed outside the limousine shall be limited to the name and telephone number of the licensee on

the front and rear license plate frames in individual letters not to exceed one inch in height and width with the cumulative size not to exceed beyond one inch the length and width of the license plates.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-242. Schedule of fares.

(a) The minimum fare of \$70.00 shall be charged the person renting or leasing the chauffeured limousine service, and if the limousine is under hire for two hours or less, this sum shall be treated as the rental for such period of hire. For the third hour, and all hours thereafter, the minimum fare shall be not less than \$15.00 per hour. Fares shall be pro-rated for all times in excess of two hours. The minimum fares specified in this section may include obligatory gratuity, tolls, parking fees and fuel surcharges. Provided further, per capita charges are specifically prohibited.

(b) Licensees shall file with the director a schedule of fares, which schedule must be approved or denied within 15 days after receipt by the director. Failure of the director to act on the request shall be deemed to be a denial by him.

(c) It shall be unlawful for any person to operate a chauffeured limousine service, or to offer or agree to provide chauffeured limousine service, or to rent or lease motor vehicles, including the service of a driver, for chauffeured limousine service, for less than the minimum fare prescribed in subsection (a).

(Ord. No. 00-960, § 2, 11-1-00; Ord. No. 05-940, § 7, 8-3-05)

Editor's note—Section 13 of Ord. No. 05-940 states that the provisions of section 46-242 of the Code of Ordinances, Houston, Texas, as that section read prior to its amendment in Section 7 of Ord. No. 05-940, shall continue to apply to agreements for renting or leasing chauffeured limousine services that are executed before the effective date of this Ord. No. 05-940, and the former provisions of section 46-242 of the Code of Ordinances, Houston, Texas, are saved from repeal for the limited purpose of their continued application to those agreements for one year after the effective date of this Ord. No. 05-940.

Sec. 46-243. Written vehicle rental agreements.

(a) A written or electronic instrument of hire shall be entered into by the chauffeured limousine service licensee and any person renting or

leasing any limousine. The instrument shall include, among other things: the date and time of hiring; the date and time of release of the vehicle; the rates applicable to the vehicle; a signature line for the chauffeur; and the names of the leasing or renting party. The instrument of hire for service originating at city airports shall also include the passengers' names, airline name, flight number, airport terminal and scheduled date and time of arrival. A copy of the instrument shall be delivered to the renting or leasing party at the time the vehicle is released, or if a monthly statement is submitted, at that time. A completed copy of the bill submitted showing total fare charged and received, shall be retained by licensee for a period of two years from the date of contract. The licensee shall make available to the director or his designated agent completed copies of the instrument at any time within the two-year period.

(b) A copy of the vehicle rental instrument form shall be filed with the director, who shall approve the form before the licensee may operate his vehicles under this article.

(c) No limousine driver shall operate a limousine upon the property of any city airport except for the purpose of discharging passengers whose trips originated elsewhere or for the purpose of rendering service to deplaning passengers who wish to be transported from the airports. No limousine driver shall park or stand his limousine upon airport property except for the purpose of actually loading or unloading passengers in accordance with an instrument executed under subsection (a), nor shall any limousine driver enter or remain upon airport property unless his limousine has permanently affixed on the windshield an automatic vehicle identification tag in accordance with policies and procedures promulgated by the director of aviation. It shall be the duty of each driver to present a copy of the instrument required under subsection (a) to any aviation department employee, finance and administration department employee, or peace officer upon request to evidence compliance with this section. If the driver fails to produce the instrument evidencing compliance, it shall be presumed in

any prosecution under this subsection that the driver's presence upon the airport property was unlawful.

(d) Violation of any provision of this section shall, consistent with the revocation and suspension procedures established in section 46-244 of this Code, be grounds for suspension of the limousine driver license for not less than 15 nor more than 30 days on first offense, and revocation of the limousine driver license on second offense. (Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-244. Revocation or suspension of license.

(a) Should the director determine upon his own initiative or upon complaint that any licensed chauffeured limousine service is not being operated in compliance with the terms of this article, or that any licensed driver has violated the terms of this article, the director shall notify the licensee or driver of his determination, pointing out the respects in which the licensee or driver is not complying with the article and notifying the licensee or driver of the date, time, and place of a hearing on the matter.

(b) The director shall, within ten days after the hearing, render his decision on the hearing, which decision may revoke or suspend the chauffeured limousine service license or limousine driver license, as applicable. The decision of the director shall be based upon the clear and convincing weight of the evidence adduced at the hearing and upon the standards set forth herein, and the decision shall be final.

(c) The chauffeured limousine service license or limousine driver license may be revoked if the licensee is convicted of an offense as specified in section 1-10 of this Code. If it appears that the licensee has been convicted of such an offense, the director shall follow the procedures set forth in section 1-9 of this Code.

(d) Notwithstanding the foregoing, if a limousine service licensee fails to pay when due any semiannual license fee installment(s) provided for in section 46-232 of this Code, his license shall automatically be revoked. (Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-245. Transfer of license.

A chauffeured limousine service license may not be transferred.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-246. Inspection—After accident.

A limousine involved in an accident shall not thereafter be used in limousine operations until it has been inspected by the director. If the director's inspection reveals that the limousine has been damaged to an extent that it is not in a reasonably good operating condition from the standpoint of the safety, health and comfort of passengers, or that the limousine has suffered damage in excess of \$1,000.00, the limousine shall be ordered out of service until the director has authorized the return of the limousine to limousine operations, which authorization shall not be given until proper repairs or corrections have been made.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-247. Accident reports.

When a limousine is involved in an accident or is in a collision with any other vehicle of any kind whatsoever that results in any injury or damage to any person or property, including the limousine but not limited thereto, the driver of the limousine, if a person other than the licensee, shall report the accident to the licensee without delay. The licensee shall report to the director all accidents upon forms to be designated by the director, which shall include the following information: The owner of the limousine, the driver's name, his license number, and the time and location of the accident.

(Ord. No. 00-960, § 2, 11-1-00)

Secs. 46-248—46-275. Reserved.

ARTICLE V. SCHOOL VEHICLES*

DIVISION 1. GENERALLY

Sec. 46-276. Definitions.

When used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Director means the director of finance and administration or his designee.

For hire means in exchange for monetary or other valuable consideration. The term expressly excludes car pooling or ride sharing arrangements for which no fee is imposed.

License means a current and valid license issued under this article.

Licensee means the holder of a license.

School means a public or private facility offering any one or more of: (i) day care or preschool programs, (ii) kindergarten, (iii) regular grades 1 through 12 or (iv) alternative programs for students under 21 years of age who have physical or learning disabilities or other special needs. The term also includes governmentally-sponsored job training centers, regardless of the age of persons attending the centers.

School vehicle means any motorized vehicle, whether a conventional sedan, station wagon, van, bus or other type, that is used for hire to transport students to or from any school that is situated in the city or that is used under the sponsorship of the school to transport students to or from any school-sponsored activity of a school that is situated in the city. The term excludes any vehicle owned or leased by the person who operates the school and operated by that person's employees for the primary purpose of providing transportation to students of the school, and any intrastate or

***Editor's note**—The provisions of Ord. No. 95-103, § 1, adopted Jan. 25, 1995, have been treated as superseding former art. V. div. 1, §§ 46-276—46-282, div. 2, §§ 46-291—46-295, and div. 3, §§ 46-306—46-316, which pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion.